

October 26, 2012

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: WC Docket Nos. 05-337 and 10-90;
GN Docket No. 09-51; AU Docket No. 12-25

Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, we hereby provide you with notice of three oral ex parte presentations in connection with the above-captioned proceedings. On October 24, 2012, Grant Spellmeyer and undersigned counsel, on behalf of United States Cellular Corporation ("U.S. Cellular") met separately with Priscilla Argeris in Commissioner Rosenworcel's office, Nicholas Degani in Commissioner Pai's office, and Angela Kronenberg and Louis Peraertz in Commissioner Clyburn's office.

In our meetings, we discussed the possible investment of supplemental Connect America Fund ("CAF") Phase I support to provide an additional \$300 million to price cap carriers in 2013. Given that price cap carriers rejected over \$180 million in CAF Phase I support in 2012, the Commission must open up any 2013 distributions to other carriers who are able to provide qualifying service to consumers in high-cost rural areas.

There is no public policy reason to continue to set aside support for carriers who are demonstrably inefficient, as evidenced by waiver requests filed by several price cap carriers seeking up to \$4,000 per location served, or unwilling to participate in the FCC's laudable efforts to jump start broadband investment in rural America.

Moreover, there is no reason to grant any waiver requests to exceed the \$775 per location limit without first determining whether other carriers can provide service to the proposed locations at a lower cost, and whether there are other areas where an investment of high-cost support will deliver a bigger benefit by covering more locations. U.S. Cellular is willing to compete for funding that is being set aside for price cap carriers. If other carriers can provide the services at a lower cost to consumers who contribute to the fund, the Commission has an obligation to include them in the process.

We also discussed CAF Phase II and requested that an important aspect of it be rethought, even before the Tenth Circuit appeals are decided. In the CAF Order, the Commission

eliminated portability – the prior rule that allowed support to flow to the services that consumers are choosing in the marketplace, commonly known as the “identical support” rule. Currently, the Commission is considering how to structure model support inputs that will fund price cap carriers that accept support pursuant to their right of first refusal (“ROFR”). If the price cap carrier accepts model support under the ROFR, they will be paid based on the cost of building a wireline network to specific locations. Yet, the CAF Order would allow such carriers to build wireless networks to meet their obligations.

The Commission must not allow a price-cap carrier to divert CAF support to a wireless affiliate to build an LTE network, without first determining whether the underlying costs of building such network are significantly lower than the cost of wireline facilities. To allow wireline carriers to build wireless facilities based on the cost of a wireline network is to recreate the identical support rule that the FCC just changed, without providing the public with the benefit of portability.

With portability, carriers face competition. Under the old rule, carriers could only receive support when they got customers, and would lose support when they lost customers. Here, the Commission is about to allow the nation’s largest carriers to build subsidized wireless networks in areas where competitors may be already operating 2G and 3G networks. In other areas, competitors may wish to expand their services, but cannot do so because support flowing to their competitor is not portable.

Allowing a price cap carrier to build a subsidized mobile broadband network, while denying competing wireless carriers the opportunity to access support on a competitively neutral basis is worse than the old identical support rule. Such an action will allow dominant wireless carriers to build and operate networks free from competition. It will absolutely depress investment by competitive carriers in any area where they must compete with a subsidized carrier that carries no risk of losing support, no matter what level of service they provide.¹

Inevitably, substantial additional regulatory structures will have to be created to account for the dominant position of subsidized carriers, substantially complicating the FCC’s mission to promote competition throughout the country, as mandated by the 1996 Act. Accordingly, any rule that allows a price cap carrier to build an LTE network with support must be amended to permit competitors to access that support to drive efficiencies in the CAF mechanism.

Lastly, we noted the continuing disconnect between the Commission’s urgency with respect to mobile broadband deployment, including the need to help rural America compete in the 21st century, and its reduction in support to mobile broadband. Mobile broadband usage and the availability of new mobile broadband devices, at ever lower price points, are exploding. Advancement in public safety and education will depend upon the quality of mobile broadband coverage and throughput. Many low-income consumers depend on mobile broadband for their

¹ U.S. Cellular discussed this topic at length in its recent reply comments in Docket Nos. 10-90 and 05-337. See, <http://apps.fcc.gov/ecfs/document/view?id=7021991980>.

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only connection to the Internet. By 2018, less than 10% of residential households will have a connection to the POTS network.

Looking at the CAF Phase I Auction 901 map, it is apparent how much needs to be done to improve mobile broadband in many states. The Commission must re-think its decision to cut significant funding to the nation's ascendant technology, and to areas that need it most. Policies that create silos of support by technology and lock out competition for support are going to bankrupt the CAF and waste valuable contributions from consumers who want mobile broadband sooner, not later.

U.S. Cellular and many other carriers are ready to build new network facilities in rural areas that need high-quality service. We urge the Commission to rethink some of its CAF I decision before the Tenth Circuit case is resolved, to accelerate deployment of mobile broadband in rural America.

If you have any questions or require any additional information, please contact undersigned counsel directly.

Sincerely,



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Counsel for United States Cellular Corporation

cc: Priscilla Argeris, Esq.
Nicholas Degani, Esq.
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